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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/903,091

Kuriacose Joseph

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SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV

P.O. BOX 2938

MINNEAPOLIS, MN 55402-0938

EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

09/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/903,091	<b>Applicant(s)</b> JOSEPH ET AL.	
	<b>Examiner</b> REUBEN M. BROWN	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 246-251, 254-258, 260-262, 265-273, 276-278, 280-281, 284-292, 294-299, 301-313 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/8/07; 6/14/07; 10/30/07; 5/20/08</u> .                      | 6) <input type="checkbox"/> Other: ____.                          |

Continuation of Disposition of Claims: Claims pending in the application are 246-251,254-258,260-262,265-273,276-278,280,281,284-292,294-299 and 301-313.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/8/2007 has been entered.

### ***Response to Arguments***

1. Applicant's arguments with respect to claims, filed 3/30/2007 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 246-251, 254-258, 260-262, 265-273, 276-278, 280-281, 284-292 & 294-299 & 301-313 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graczyk, (U.S. Pat # 5,192,999), in view of Lett, (U.S. Pat # 5,657,414).

Considering claims 246, 247, 257, 268, 269, 277, 285, 286, 298 & 299, the claimed TV system or method comprising;

*'a client to receive data including at least auxiliary data & application data'*, is met by the workstation 10, which is a personal computer that receives various types of interactive applications via telecommunications circuitry 12, see col. 4, lines 21-40.

*'a client computer to process computer code, included in the application data, to facilitate an interaction with a user'*; reads on host computer 24, which is the computer that controls operation of the workstation 10, col. 4; col. 5, lines 1-40; col. 6, lines 7-32; Fig. 1. Since the workstation 10/host computer 24 in Graczyk is a personal computer, it inherently processes

computer code included in any application which facilitates interaction with a user. For instance, Graczyk teaches that various multimedia applications are interactively operated by the user via the workstation 10, col. 4, lines 44-61.

*'an auxiliary data processor to process the auxiliary data'*, reads on the multimedia circuitry 14, col. 5, lines 25-36.

*'a display to display images based on at least one of the processed auxiliary data and the processed application data'*, is met by the monitor 26, col. 4, lines 50-67 thru col. 5, lines 1-10.

*'a local computer collocated with and in communication with the client to allow the client to communicate with the local computer'*, corresponds with the disclosure of Graczyk, which is directed to a computerized TV system including a host computer 24 and a TV circuit 46, within the same chassis; see Fig. 1; Abstract & col. 2, lines 10-22. The claimed *'local computer'* corresponds with the TV circuit 46, which is enabled to receive TV signals from an antenna or CATV connection, col. 5, lines 64-66. The host computer 24 communicates with the TV circuit 46.

However, Graczyk does not explicitly teach that the tuner card 46 includes a microprocessor, which would read on a *'local computer'*. Nevertheless Lett, which is in the same field of endeavor, teaches an upgrade for client computer system that includes an expansion card with a microprocessor, col. 8, lines 15-63. It would have been obvious for one of ordinary skill in

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the art at the time the invention was made, to modify the tuner card 46 of Graczyk with the feature of a microprocessor, at least for the desirable improvement of extending the capabilities of the main microprocessor, as taught by Lett.

As for the additionally claimed feature of a *'mass storage in communication with the local computer, wherein the client to enable the client is to retrieve information from the mass storage via the local computer'*, Graczyk teaches that the TV circuit 46 may retrieve at least graphics/video data from a laser disk player, (which reads on the claimed *'mass storage'*) col. 5, lines 66-67. Also, Lett teaches that the expansion card 138 includes its own memory for storing additional program data, col. 8, lines 55-62. The expansion card 138 in Lett interacts with the main memory and microprocessor, in a manner that reads on the claimed subject matter.

Considering claims 248, 258, 270, 278, 287-288 & 301, col. 9, lines 50-62 of Graczyk discloses that video signals from TV circuit 46 may be mixed with graphics/video signals from host computer 24 and stored on a disk.

Considering claims 249-251, 260-262, 271-273, 280-281, 289-291 & 302-304, the host computer 24 of Graczyk, which is a personal computer, controls the processes within the multimedia computerized TV system, including the operation of the TV circuit 46. As for the computer program received in the data, the subject matter reads on the interactive software operating on the tuner card 46 in Graczyk, which is controlled by the computer 24.

Considering claim 254-256, 265-267, 276, 284, 292, 294-297 & 305-311, the executable code is broad enough to read on the interactive software operating on the host computer 24 of Graczyk, such as Multimedia Windows operator interface, see col. 13, lines 7-24.

Considering claims 312-313, the claimed machine-readable medium embodying a sequence of instructions that, when executed by a machine, causes the machine to perform functions that correspond with subject matter mentioned above in the rejection of claim 246, is likewise analyzed. As for the claimed, '*machine*' the recitation reads on the CPU used in the host computer 24 in Graczyk.



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**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
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[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/  
Patent Examiner, Art Unit 2623